

Policy statement

Securing compliance: Extensions and exemptions guidance

Statement on final guidance
on extensions or exemptions
from our specific directions
and requirements following
consultation

July 2024

Contents

1	Executive summary	3
2	Introduction	5
3	Summary of consultation responses and our views	6
4	Changes to the guidance following consultation	9

1 Executive summary

- We use specific directions and requirements to require regulated parties to make changes that improve payments for people and businesses across the UK.
 - We recognise that there may be circumstances where it may be appropriate for us to give regulated parties more time to comply, or to waive a requirement altogether. This is why some of our specific directions and requirements provide for a process to ask us for extensions and exemptions.
 - Between 1 May and 4 June 2024, we consulted on draft guidance that set out the factors we proposed to use to decide whether to grant an extension or exemption to parties affected by one of our specific directions or specific requirements. The guidance includes information on when to engage with us when such circumstances arise.
 - The guidance gives clarity on our approach, the high degree of scrutiny that businesses should expect, and the circumstances in which an extension or exemption request is likely to be accepted or rejected. We set the bar high for granting an extension or exemption because we want as many people as possible to benefit from the actions that we take to deliver competition, innovation, and greater benefits to UK payments users.
 - We have reviewed the consultation responses. We made some limited revisions for additional clarity and published the final guidance.
 - This policy statement summarises the consultation responses and our response to the issues raised by respondents, and highlights the revisions we have made to the guidance.
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1.1 In the consultation, we asked:

1. Do you have any comments on the draft guidance for considering extensions and exemptions to our specific directions?
2. Do you agree with the key factors we propose for considering extensions?
3. Do you agree with the key factors we propose for considering exemptions?
4. Are there any other factors you think we need to consider that are not covered in the proposed guidance?

1.2 We have considered the responses carefully. We received a mix of comments about our aims and our approach to granting extensions and exemptions, specific issues recommending how we should revise the guidance, and views about our approach to regulation policy-making more generally.

- 1.3** We accept the importance of the need to provide clarity to both industry and payments users when we deem an extension or exemption appropriate. We remain of the view that the bar for granting an extension or exemption should be high for the benefit of UK payments users, and our approach was supported by some of the respondents.
- 1.4** We have made some revisions to the guidance based on responses received to provide additional clarity on our approach.
- 1.5** Some of the responses raised broader issues of regulatory policy formulation and implementation that are beyond the scope of the guidance. We note those matters and our response to them in this policy statement.

2 Introduction

- 2.1** Some of our specific directions and requirements allow us to extend the time available to parties to comply, for a defined period of time, or to grant an exemption in relation to specific directions and requirements imposed under the Financial Services (Banking Reform) Act 2013 (FSBRA).
- 2.2** We have already granted such exemptions and extensions to regulated parties asking for exemptions or extensions in complying with aspects of Specific Directions 2, 3 and 17 in relation to the New Payments Architecture (NPA) and Confirmation of Payee (CoP).
- 2.3** Sections 54 and 55 of FSBRA grant us powers to issue specific directions and requirements. Section 96 allows us to issue general guidance, keeping in mind our general duties and regulatory principles, as expressed in sections 49 and 53 of FSBRA. By providing the guidance, we want to increase transparency and make sure regulated parties understand the factors we will consider when determining whether to grant an extension or exemption.
- 2.4** We also want stakeholders to understand the information we expect regulated parties to provide when applying for an extension or exemption.
- 2.5** We therefore consulted between 1 May and 4 June 2024 on the draft guidance, explaining the factors that would inform our decision whether (or not) to grant an extension or exemption to a specific direction or requirement. When regulated parties consider there are circumstances that have arisen that could risk timely compliance, the guidance explains how they should communicate with us.
- 2.6** We appreciate the feedback we have received from stakeholders, whether they are regulated parties or payments users. This has resulted in some revisions to the final guidance.
- 2.7** You can find the final guidance on our website at www.psr.org.uk/extensions-and-exemptions-guidance/

3 Summary of consultation responses and our views

- 3.1** We welcome the careful responses received from both industry and payments users. We have considered the responses suggesting amendment and have made changes to the guidance in specific instances to provide further clarity. We also explain in this chapter why we have decided not to make changes, or where the issues raised go beyond the scope of the guidance. The non-confidential responses are available at www.psr.org.uk/ps24-4-securing-compliance-extensions-and-exemptions-guidance/
- 3.2** Some of the responses welcomed the publication of the guidance and agreed with us that it is necessary to set a high bar for granting extensions and exemptions, such that they are likely to be agreed only in exceptional circumstances. This ensures that the effectiveness of the specific directions and requirements is not weakened by too many regulated parties failing to take the appropriate steps to comply within the required period.
- 3.3** Other respondents expressed concern that we had set the bar too high and also proposed that we should make a greater distinction between short-term extensions and exemptions, and show more flexibility.
- 3.4** We continue to believe that setting a high bar is important to ensure as many people as possible can benefit from the actions that we take to deliver competition, innovation, and greater benefits to UK payments users. We will review each application on a case-by-case basis and will consider all relevant circumstances, including unforeseen issues.
- 3.5** With regard to engaging with regulated parties on short-term turnarounds and mitigations, we state in paragraph 1.5 of the guidance that we expect firms to contact us at the earliest opportunity to engage in a regulatory dialogue. This is consistent with General Direction 1¹ (GD1), and we would expect regulated parties to set out in detail how they will mitigate the risk to those who use their services, or to the market as a whole. The guidance also clarifies the different approaches we take to extensions and exemptions, including where we are and are not likely to grant an extension, from paragraphs 2.12 to 2.16.
- 3.6** Some respondents also requested that we make specific references in our guidance to a number of issues. These included:
- i. how we intend to advance our payment systems objectives when applying the guidance, in relation to different categories of payment systems or participants in payment systems
 - ii. the potential costs and benefits under consideration in any extension or exemption decision
 - iii. greater emphasis on our duty to promote innovation

¹ [General Direction 1: Cooperative relationships with the PSR](#) (2020) imposes an obligation on participants and regulated persons to deal with us in an open and cooperative way. This includes notifying us if they become aware of information that suggests that a failure to comply with any of our directions, requirements or other obligations may have occurred, or may occur in the foreseeable future.

- iv. an explanation of our approach to specific directions and requirements where there is no explicit provision for an extension or exemption

- 3.7** In relation to paragraph 3.6 (i) and (ii), we consider that the current wording of paragraphs 1.12 and 2.6 of the guidance already explains that we will consider any extension or exemption request on a case-by-case basis and will consider the specific facts of each individual application.
- 3.8** In relation to paragraph 3.6 (iii) and our duty to promote innovation, we stress at paragraph 2.1 of the guidance that it is crucial that all regulated parties are incentivised to comply fully with our directions if our strategic² and statutory³ objectives are to be met, and that in assessing the appropriateness of an extension we will seek to ensure the delivery of our objectives. We think that it is important to consider whether granting an extension or exemption helps or hinders the delivery of our objectives, including the promotion of innovation, and we have amended paragraph 2.2 of the guidance to emphasise that.
- 3.9** With regard to paragraph 3.6 (iv), we have clarified that the guidance states, at paragraph 1.7, that it applies only to specific directions or requirements under section 54 or 55 of FSBRA that contain a provision for us to allow such extensions or exemptions. Nevertheless, at paragraph 1.8, and consistent with the requirements of GD1, we clarify that regulated parties should notify us of any concerns about their ability to comply with any directions and requirements, even if no specific provision for exemption or extension is included. In such circumstances, we will take into account the factors set out in the guidance, along with the factors outlined in the Administrative Priority Framework (APF), in deciding what to do – for example, in deciding whether to prioritise enforcement or considering whether to vary or revoke a specific direction or requirement.
- 3.10** Some of the same respondents also considered that we needed to take more explicit account of other factors impacting regulated parties, such as competing regulatory demands and the potential impact that third-party contractors could have on a party's ability to meet its obligations.
- 3.11** We have clarified the language in the guidance at paragraph 2.13, specifically to note that we are unlikely to consider granting an extension where a regulated party seeks to justify a request for an extension on the basis of resource constraints on its ability to fulfil parallel regulatory requirements. Granting an extension in such circumstances could risk providing a disincentive to regulated parties to meet our obligations that benefit UK payments users. To be clear, by 'competing regulatory demands' in paragraph 2.13, we do not mean where there appears to be a contradiction between our regulatory requirements and those of another regulator.
- 3.12** We appreciate the feedback from the Bank of England suggesting the inclusion of specific examples at paragraph 2.3 and a new paragraph 2.12 to clarify circumstances where a regulated party may be impacted by the Bank's requirements. We agree that these are some of the possible circumstances that should justify an exemption. Should this issue arise with a regulated party, we feel there is sufficient flexibility in our guidance for us to consider the impact of the implementation of any of our specific directions or requirements.

2 psr.org.uk/publications/psr-strategy-documents/the-psr-strategy/

3 legislation.gov.uk/ukpga/2013/33/part/5/crossheading/general-duties-of-regulator/enacted

- 3.13** One respondent claimed that we had unrealistic expectations of timelines and suggested that we should take greater account of the operational complexity faced by regulated parties. As this relates to the way we approach policy design and assess responses to consultations on draft directions, we consider this to be a matter that relates to the design and development of our directions and requirements, and therefore that is beyond the scope of the guidance.
- 3.14** The same respondent also noted that we should take account of 'broad industry response that the proposed timeline is too tight, preferably by extending the deadline for all or alternatively responding for extensions from individual firms'.
- 3.15** We state in paragraph 2.3 of the guidance that we are more likely to grant an exemption or extension when an applicant provides cogent evidence that they will not be able to comply due to circumstances beyond their control that they could not have reasonably planned for or mitigated against. Within that context, the breadth of sources providing such cogent evidence might be relevant to our assessment.
- 3.16** Finally, in relation to these submissions, we also note that a broad response from industry may be relevant when considering whether to prioritise enforcement or considering whether to vary or revoke a specific direction or requirement (see paragraph 1.8 of the guidance).

4 Changes to the guidance following consultation

4.1 We have revised the guidance in light of some of the issues raised by respondents during our consultation, specifically:

- a. We corrected a reference to payment service providers at Paragraph 1.2.
- b. We have clarified the language at Paragraph 1.5.
- c. Paragraph 2.1 includes a reference to other regulators' duties that we must have regard to under section 96 of FSBRA, including the Bank of England's 'financial stability' requirement, following a request by one of the respondents that this should be referred to explicitly in the guidance.
- d. Paragraph 2.2 emphasises our consideration of whether granting an extension or exemption would help or hinder the meeting of our objectives, including the promotion of innovation.
- e. We have amended the first bullet point in paragraph 2.13 to read, 'where a regulated party has competing resource demands to meet its obligations from other regulators', to clarify what kind of competing regulatory demands we mean.
- f. We have amended paragraph 3.6 to provide stakeholders with greater transparency of how long we will typically take to review applications once all the information has been supplied by an applicant.
- g. We have amended paragraph 3.7 with our own wording following feedback from one of the respondents.
- h. We have amended paragraph 3.8 to clarify when we expect applicants to let us know if they have issues with complying with their regulatory obligations.
- i. We have amended paragraph 3.10 to clarify that we may publish non-confidential details of a request and our decision on our [website](#) where the exemption or extension is granted, and that we may produce FAQs on applications that have been rejected to be transparent with firms about the rationale for rejection.

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